

REMARKS

Claims 114 through 162 are pending in the application. Claims 9-14, 18, 19, 22, 68-94, and 101-113 have been canceled and Claims 114 through 162 are newly presented. Support for the new claims may be found throughout the application, drawings and claims as originally filed and as such, no new matter has been presented. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the remarks contained herein.

NEWLY PRESENTED CLAIMS

Initially, Applicant notes that Claim 114 is directed to a fastener that includes a wing member, which terminates at a free end (opposite the end at which it is coupled to the generally U-shaped portion), the free end having a distal edge surface that is sloped relative to the flange of the fastener in a vertical direction so that a first lateral side of the distal edge surface is relatively closer to the flange in the vertical direction than a second opposite lateral side of the distal edge surface. Claims 115 through 121 depend from Claim 114.

Independent Claim 122 is directed to a fastener having a body with a pair of generally U-shaped portions. A wing member is coupled to each of the generally U-shaped portions. Each wing member includes a free end that terminates at a distal edge surface. The distal edge surface is sloped relative to the flange of the fastener in a vertical direction so that a first lateral side of the distal edge surface is relatively closer to the flange in the vertical direction than a second opposite lateral side of the distal edge surface. Claims 123 through 132 depend from Claim 122.

Claim 133 is directed to a fastener having a first generally U-shaped portion and a second generally U-shaped portion. A pair of wing members are coupled to the first generally U-shaped portion. The wing members have a warped planar shape with a free

end that terminates at a distal edge surface. The distal edge surface is sloped relative to the flange of the fastener in a vertical direction so that a first lateral side of the distal edge surface is relatively closer to the flange in the vertical direction than a second opposite lateral side of the distal edge surface. Claims 134 through 147 depend from Claim 133.

Claim 148 is directed to a fastener having a first body portion and a second body portion with pairs of wing members being coupled to each of the first and second body portions. Each wing member has a twisted planar shape with a free end that terminates at a distal edge surface. The distal edge surface is sloped relative to the flange of the fastener in a vertical direction so that a first lateral side of the distal edge surface is relatively closer to the flange in the vertical direction than a second opposite lateral side of the distal edge surface. Claims 149 through 161 depend from Claim 148.

Claim 162 is directed to a fastener that includes first and second wing members that have a free end which terminates at a distal edge surface. The distal edge surface is sloped relative to the flange of the fastener in a vertical direction so that a first lateral side of the distal edge surface is relatively closer to the flange in the vertical direction than a second opposite lateral side of the distal edge surface.

In contrast, U.S. Patent No. 5,759,004 to Kuffel discloses a pushmount having a pair of resilient retaining legs (18), each of which including a centering tab (22) that is disposed between a pair of end surfaces (20). The Kuffel reference discloses that the end surfaces (20) are “inwardly offset” to “abut the underside of mounting surface 30 to retain mount 10 in engagement with mounting surface 30”. Concerning the centering tabs (22), Applicant notes that the Kuffel reference states that the legs (18) spring outwardly upon passing through a hole (32) so that the centering tabs (22) abut against the mounting surface (30) from within the hole (32). The Kuffel reference notes that the inward offset of the centering tabs (22) abut the mounting surface (30) to aid in retaining the pushmount (10) to the

mounting surface (30) and that the outward pressure exerted by the centering tabs helps to secure and center the pushmount (10) within the hole (32). Kuffel does not teach or suggest distal edge surfaces that slope in a vertical direction.

U.S. Patent No. 5,251,467 to Anderson appears to disclose a locking mechanism that may be installed to the front of a cabinet. The mechanism includes a retaining spring (21) with a base (23) and a pair of legs (25). The base (23) is adapted to be engaged to a shaft (20) prior to insertion of the locking mechanism into a hole in the face (6) of a drawer (5). Upon insertion, the legs (25) spring outwardly and engage the edges of the hole to thereby fixedly secure the shaft (20) to the drawer (5). Significantly, the retaining spring (21) is not and cannot be secured by itself to the drawer (5) but rather must first be coupled to the shaft (20). In this regard, the legs (25) of the retaining spring (21) exert force onto both the drawer (5) and the shaft (20) after the locking mechanism is installed to the drawer (5).

In view of the above discussion of Claims 114 through 162 and the Kuffel and Anderson references, Applicant submits that the Kuffel reference does not teach or suggest the subject matter of Claims 114 through 162 and that there is no teaching or suggestion in the art for the combination of Kuffel and Anderson.

Concerning the combination of Kuffel and Anderson, Applicant notes that the teaching or suggestion to make the claimed combination must both be found in the prior art, and not based on an applicant's disclosure. Appellant further notes that the Patent Laws draw a distinction between trade-offs and motivation to combine: trade-offs often concern what is feasible, not what is necessarily desirable, whereas motivation to combine requires the latter. *See, e.g., Winner International Royalty Corp. v. Wang*, 2002 F.3d 1340, 53 USPQ2d 1580 (Fed. Cir.), *cert. denied*, 530 U.S. 1238 (2000).

In the instant case, the Office has noted that “Anderson (figures 5-8) explicitly teaches the use of two legs, 25, 27 that are twisted as indicated in col. 6, lines 63-64, thereby establishing in the art that it is desirable to utilize a pair of legs to maintain a fastener within an aperture by explicitly twisting both of the legs.” The Kuffel reference, however, works by abutting the underside of the panel or mounting surface (30) into which the pushmount is inserted. The Office has not stated with particularity how the Kuffel reference would be modified, or how it would provide “better insertion force and retention characteristics” if modified in the manner envisioned by the Office.

Applicant submits that the modification that has been proposed by the Office (i.e., modifying the curved or turned legs of the fastener of Kuffel so as to be twisted) is a trade-off rather than the requisite motivation-to-combine since it concerns what may be feasible rather than what is desirable.

Should the Office contend that the proposed modification is desirable, Applicant submits that as the Office has not cited any particular art supporting that the Anderson legs have better insertion and retention characteristics. Accordingly, Applicant submits that the rejection is based on personal knowledge (of the Examiner) and as such, **Applicant requests an affidavit from the Examiner.** As noted in 37 CFR §1.107, “when a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.”


In view of the above, Applicant respectfully submits that Claims 114 through 162 are in condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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